



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, MNSD, MND, FF.*

Introduction,

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for loss of income, cost of repairs, cleaning and the filing fee and to retain the security deposit in satisfaction of her claim. The tenant applied for the return of double the security deposit and for the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, cost of repairs, cleaning and the filing fee? Is the tenant entitled to the return of double the security deposit?

Background and Evidence

The tenancy started on May 01, 2011. The monthly rent was \$1,400.00. Prior to moving in the tenant paid a security deposit of \$700.00. By mutual agreement on June 04, 2013, the landlord returned the rent for June to the tenant on condition that he moved out immediately. The tenant moved out on June 20, 2013. Despite having entered into this agreement on June 04, the landlord applied for the rent for June on June 06 which is just two days later. The tenant provided the landlord with his forwarding address on June 21, 2013.

The landlord testified that the tenant broke the shower door, removed it and placed it on the balcony. The tenant stated that the door was loose, and did not work well and that he had informed the landlord when they renewed the tenancy agreement in May 2012. The landlord testified that the shower door which is approximately 18 years old has not been fixed yet and that the landlord has plans to renovate the unit. The landlord filed a copy of an estimate to replace the shower door in the amount of \$577.50.

The landlord has also made a claim for \$105.50 for carpet cleaning and has filed an invoice to support her claim. The tenant agreed that he had not shampooed the carpet but stated that the landlord informed him that she was going to renovate and therefore he did not have to shampoo the carpet. The tenant agreed that he had not returned one set of keys and could not recall if he had returned the parking remote control. The tenant is claiming the return of double the security deposit.

The landlord is claiming the following:

1.	Return of rent for June 2013	\$1,400.00
2.	Loss of income for July 2013	\$1,400.00
3.	Replace shower door	\$577.50
4.	Carpet cleaning	\$105.50
5.	Replace key and parking remote control	\$125.00
6.	Mailing costs	\$10.70
7.	Filing Fee	\$50.00
	Total	\$3,668.70

Analysis

Landlord's application:

1. Return of rent for June 2013 - \$1,400.00
2. Loss of income for July - \$1,400.00

Based on the testimony of both parties, I find that on June 04, 2013, the parties entered into a mutual agreement to end the tenancy and the landlord agreed to return the rent that the tenant had paid for June. Even though the landlord returned the rent on June 04, two days later she made application to recover rent for June. The landlord also indicated during the hearing that she tried to rent the unit for the month of July and was unsuccessful but since she has plans to renovate the rental unit, it is currently unoccupied and not available for renting. Pursuant to the verbal mutual agreement between the two parties and based on the landlord's testimony regarding renovations, I find that the landlord is not entitled to both rent for June and to loss of income for July.

3. Replace shower door - \$577.50

The landlord provided an estimate to replace the shower door and stated that the door has not yet been replaced. Based on the age of the door which according to the landlord is approximately 18 years old and on a balance of probabilities, I find that it is more likely than not that the shower door had outlived its useful life and broke down as a result of use over its lifetime. For all the above reasons, I dismiss the landlord's claim in the amount of \$577.50 to replace the shower door.

4. Carpet cleaning - \$105.50

The tenant agreed that he did not shampoo the carpet prior to moving out and is therefore responsible for the cost of doing so. Accordingly I award the landlord \$105.50 towards the cost of carpet cleaning.

5. Replace key and parking remote control - \$125.00

The tenant agreed that he had lost one set of keys and could not recall whether he returned the parking remote control. Therefore I award the landlord \$125.00 towards the replacement of these items.

6. Mailing costs - \$10.70

The legislation does not permit me to award any litigation related costs other than the filing fee.

7. Filing fee - \$50.00

Since the landlord has proven a portion of her claim, I award the landlord \$50.00 towards the recovery of the filing fee.

Overall the landlord has established a claim of:

1.	Return of rent for June 2013	\$0.00
2.	Loss of income for July 2013	\$0.00
3.	Replace shower door	\$0.00
4.	Carpet cleaning	\$105.50
5.	Replace key and parking remote control	\$125.00
6.	Mailing costs	\$0.00
7.	Filing Fee	\$50.00
	Total	\$280.50

Tenant's application:

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, the landlord filed her application on June 06, 2013 which is prior to the end of tenancy and within the legislated time frame of 15 days. Therefore the tenant is not entitled to the return of double the security deposit.

Since the tenant has not proven his case, he must bear the cost of filing his application.

The landlord has established a claim of \$280.50. I order that the landlord retain this amount from the security deposit of \$700.00 and return the balance of \$419.50 to the tenant. Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$419.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$419.50**.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 12, 2013

Residential Tenancy Branch

